

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Wilbur	Team: Team # 6	CCRB Case #: 201115913	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/10/2011 12:35 PM	Location of Incident: Lincoln Terrace Park	Precinct: 77	18 Mo. SOL 6/10/2013	EO SOL 6/10/2013	
Date/Time CV Reported Sat, 12/10/2011 1:05 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 12/10/2011 1:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Maloney	05057	930640	077 PCT
2. POM Darryl Chen	29402	903608	077 PCT
3. POM William Camacho	24431	933669	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Maloney	Abuse: Sgt. Robert Maloney supervised the stop of § 87(2)(b)	
B.POM Darryl Chen	Discourtesy: PO Darryl Chen spoke obscenely to § 87(2)(b)	
C.POM William Camacho	Discourtesy: PO William Camacho spoke obscenely to § 87(2)(b)	
D.POM Darryl Chen	Abuse: PO Darryl Chen searched § 87(2)(b)	
E.POM Darryl Chen	Abuse: PO Darryl Chen threatened to arrest § 87(2)(b)	
	§ 87(2)(g), § 87(4-b)	
	§ 87(4-b), § 87(2)(g)	

Case Summary

§ 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) on December 10, 2011, via the Call Processing System.

On December 10, 2011, at approximately 12:35 p.m., § 87(2)(b) was stopped by Sgt. Robert Maloney, PO Darryl Chen and PO William Camacho of the 77th Precinct, inside of Lincoln Terrace Park in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority:** Sgt. Robert Maloney supervised the stop of § 87(2)(b)
 - **Allegation B – Discourtesy:** PO Darryl Chen spoke obscenely to § 87(2)(b)
 - **Allegation C – Discourtesy:** PO William Camacho spoke obscenely to § 87(2)(b)
 - **Allegation D – Abuse of Authority:** PO Darryl Chen searched § 87(2)(b)
 - **Allegation E – Abuse of Authority:** PO Darryl Chen threatened to arrest § 87(2)(b)
- § 87(2)(g)
- § 87(2)(g), § 87(4-b)

On December 22, 2012, § 87(2)(b) declined to mediate his complaint.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. § 87(2)(b) is a 5'10" tall, 185 pound black male with a bald head and brown eyes. § 87(2)(b).*

CCRB Testimony

§ 87(2)(b) provided a brief statement to the CCRB upon the filing of this complaint on December 10, 2011, and was interviewed at the CCRB on December 22, 2011. The statements were similar with any discrepancies noted below (Encl 3-3a, 4-4e).

On December 10, 2011, at approximately 12:35 p.m., § 87(2)(b) entered Lincoln Terrace Park in Brooklyn from the entrance located at Carroll Street and Rochester Avenue. § 87(2)(b) had come from an unknown friend's home and was walking through the park to a Popeye's restaurant to buy lunch. § 87(2)(b) entered the park and within 10 seconds, he noticed a black unmarked Toyota Camry driving behind him. Two seconds after § 87(2)(b) noticed the vehicle, the vehicle initiated its sirens. § 87(2)(b) assumed that the vehicle was not concerned with him, so he stepped off the main path to allow the vehicle to pass. Three seconds after that, the vehicle pulled up next to § 87(2)(b) and the driver of the vehicle asked § 87(2)(b) if he had heard

him call him. There were three officers in the vehicle. An officer, identified via the investigation as PO Darryl Chen of the 77th Precinct, was described as a 5'10"-6'1" tall, muscular build light skinned black male with black hair in a crew cut between forty and fifty. An officer, identified via the investigation as Sgt. Robert Maloney of the 77th Precinct, was described as a 5'4" tall, medium built white male in his early thirties. An officer, identified via the investigation as PO William Camacho of the 77th Precinct, was described as a 5'10" tall, 170 pound Hispanic or white male with dark blond hair in his mid-thirties. All three officers were wearing plainclothes that § 87(2)(b) could not describe.

§ 87(2)(b) stopped walking and turned to face PO Chen and stated that he had not heard the officers call him. PO Chen called § 87(2)(b) a smart ass and asked what § 87(2)(b) was doing in the park. § 87(2)(b) responded that he was walking through the park and PO Chen asked what he was doing in the area. All three officers exited the vehicle and § 87(2)(b) repeated that he was walking in the park. PO Camacho said that § 87(2)(b) was a "fucking piece of work" and told § 87(2)(b) that he and his partners needed to know what § 87(2)(b) was doing in the park and that when an officer told you to stop, you stopped. § 87(2)(b) was getting agitated at this point and was nervous. § 87(2)(b) asked the officers why he was being stopped and PO Camacho responded that it was not § 87(2)(b)'s business why he was stopped, rather he just needed to tell the officers why he was in the park. PO Camacho called § 87(2)(b) a "fucking piece of work." § 87(2)(b) asked again why he was stopped and questioned and PO Camacho responded that the park is a high crime area. Sgt. Maloney told § 87(2)(b) that he was stopped because "his guys" had a suspicion about him. PO Camacho stated that § 87(2)(b) asked too many questions and demanded identification.

PO Chen put his hand on § 87(2)(b)'s chest and told his partners that § 87(2)(b)'s heart was beating very hard. § 87(2)(b) jumped back and asked why he was touched and PO Chen stated that § 87(2)(b) was going to be detained because he was suspicious and was shaking. § 87(2)(b) stated that he was shaking and fidgeting from side to side because he was nervous about being stopped for doing nothing. PO Chen stated that he was not satisfied with that answer and told § 87(2)(b) that he was making the officers nervous due to his fidgeting and PO Camacho placed handcuffs on § 87(2)(b) for 10 seconds before removing them.

PO Chen asked § 87(2)(b) if he had anything on him that he should not, and § 87(2)(b) responded that he did not. During that time, PO Chen entered § 87(2)(b)'s pants pockets and vest pockets and removed his wallet and cell phone. PO Chen asked § 87(2)(b) where his identification was and he told him it was in his pocket. § 87(2)(b) stated that he had two additional cell phones in his pocket and pulled them out of his pocket. Sgt. Maloney took the cell phones and a soda bottle that § 87(2)(b) was holding. The cell phones and soda were placed on the ground. Sgt. Maloney retrieved § 87(2)(b)'s identification, looked at it and handed it to PO Chen who handed it to § 87(2)(b). Sgt. Maloney said that the officers were going to be nice to him and let him go and handed back the wallet to § 87(2)(b).

§ 87(2)(b) asked if he was going to be released with a "250 report." PO Chen angrily turned towards § 87(2)(b) and yelled, "who the hell do you think you are telling me how to do my job, let's run this cocksucker in." § 87(2)(b) apologized to the officers and Sgt. Maloney asked for § 87(2)(b)'s name, date of birth and address and wrote down that information in his memo book. Once this was concluded Sgt. Maloney stated that the officers could have brought him to Central Booking but instead they were going to release him.

NYPD Statements:

Subject Officer: SGT. ROBERT MALONEY

- *Sgt. Maloney is a § 87(2)(b)*
- *On December 10, 2011, Sgt. Maloney worked from 9:00 a.m. until 7:57 p.m. He was assigned as the Anti-Crime supervisor and was partnered with PO Chen and PO Camacho. He was assigned to an unmarked black Ford Taurus RMP 1537 and could not recall if he was in uniform or in plainclothes (Encl 5-5b).*

Subject Officer: PO DARRYL CHEN

- *PO Chen is a § 87(2)(b)*
- *On December 10, 2011, PO Chen worked from 9:00 a.m. until 7:57 p.m. and did additional overtime until 12:57 a.m. on December 11, 2011. He was assigned to the Anti-Crime team and was partnered with Sgt. Maloney and PO Camacho. He was assigned to an unmarked black Ford Taurus RMP 1537 and was in plainclothes (Encl 6-6c).*

Subject Officer: PO WILLIAM CAMACHO

- *PO Camacho is a § 87(2)(b)*
- *On December 10, 2011, PO Camacho worked from 9:00 a.m. until 7:57 p.m. He was assigned to the Anti-Crime team and was partnered with Sgt. Maloney and PO Chen. He was assigned to an unmarked black Ford Taurus RMP 1537 and was in plainclothes (Encl 7-7c).*

Memo Book Entries

Sgt. Maloney's memo book indicates that at 12:40 p.m. § 87(2)(b) was stopped at the corner of Rochester Boulevard and Eastern Parkway for criminal possession of a weapon. At the same time he was released and a stop, question and frisk report was generated (Encl 5-5c).

Neither PO Chen nor PO Camacho had any memo book entries regarding this incident. PO Chen has a memo book at 11:30 a.m. that he resumed patrol from the stationhouse and at 2:35 p.m. he arrested one male at 215 Rochester Avenue. PO Camacho's memo book entry indicates that at 11:05 a.m. PO Chen arrested one individual and at 2:35 p.m., PO Chen arrested another individual (Encl 6-6a, 7-7a).

Handwritten Stop, Question and Frisk Report § 87(2)(b)

The handwritten report, filed by Sgt. Maloney indicates that § 87(2)(b) was stopped on December 10, 2011 at 12:40 p.m. at the southwest corner of Rochester Avenue and Eastern Parkway in Brooklyn. He was stopped due to suspicion of criminal possession of a weapon and furtive movements. § 87(2)(b) was observed for one minute prior to the stop, which lasted two minutes. § 87(2)(b) was frisked due to furtive movements and refusal to comply with officer's directions. He was not searched. Three additional factors were that § 87(2)(b) changed direction at the sight of the officers, he provided evasive, false or inconsistent responses to questions and the area has a high incidence of reported offense of type under investigation. The force used against him was hands on suspect (Encl 5c).

CCRB Testimony

Sgt. Maloney was interviewed at the CCRB on May 10, 2012. PO Chen and PO Camacho were interviewed at the CCRB on May 22, 2012. Their testimony was identical and has been summarized below (Encl 5e-5f, 6b-6c, 7b-7c).

Neither Sgt. Maloney, PO Chen nor PO Camacho recalled this incident after reviewing the handwritten Stop, Question and Frisk Report, looking at a photograph of § 87(2)(b) and being told the salient details of this case. They did not recall conducting any stops on that date or patrolling in Lincoln Terrace Park.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of May 22, 2012, with regard to the incident (Encl 10-10a).

§ 87(2)(b)

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§ 87(2)(b)

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Subject Officers' CCRB History

- PO William Camacho has been a member of the service for eight years and there are no substantiated CCRB allegations against him (Encl 2b)
- PO Darryl Chen has been a member of the service for 18 years and there is one substantiated CCRB allegation against him. In CCRB case #200913866, an allegation of retaliatory summons was substantiated against PO Chen. The NYPD imposed a penalty of instructions (Encl 2c-2d).
- Sgt. Robert Maloney has been a member of the service for nine years and there are no substantiated allegations against him (Encl 2-2a).

Conclusion

Identification of Subject Officers

- Sgt. Maloney filed a stop, question and frisk report for this incident, and according to all three officers, Sgt. Maloney, PO Chen and PO Camacho worked together on the date of the incident. Given that Sgt. Maloney was the supervisor on scene and filed the stop, question and frisk report, Allegation A is pled against him. Allegations B, D and E are pled against PO

Chen because § 87(2)(b) identified the subject officer as a black male and PO Chen was the only black male officer. Allegation C is pled against PO Camacho.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Robert Maloney supervised the stop of § 87(2)(b)

Allegation B – Discourtesy: PO Darryl Chen spoke obscenely to § 87(2)(b)

Allegation C – Discourtesy: PO William Camacho spoke obscenely to § 87(2)(b)

Allegation D – Abuse of Authority: PO Darryl Chen searched § 87(2)(b)

Allegation E – Abuse of Authority: PO Darryl Chen threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Maloney and his officers stopped him in Lincoln Terrace Park. He alleged that PO Chen called him a “smart ass” and PO Camacho told him that he was “fucking piece of work.” In addition, he alleged that PO Chen searched him and threatened to arrest him. Neither Sgt. Maloney, PO Chen nor PO Camacho recalled this incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

According to the handwritten Stop, Question and Frisk Report, § 87(2)(b) was stopped due to suspicion of criminal possession of a weapon and he was frisked due to furtive movements and providing evasive answers to officers’ questions. Sgt. Maloney acknowledged that he filed the Stop, Question and Frisk Report regarding the stop of § 87(2)(b) but had no independent recollection of this incident, specifically what led to the stop and whether § 87(2)(b) was frisked and/or searched. Neither PO Chen nor PO Camacho had an independent recollection of this incident and could not recall whether the allegations occurred. § 87(2)(b), § 87(2)(g)

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§ 87(4-b), § 87(2)(g)

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Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date